

REMARKS

The Final Office Action and subsequently issued Advisory Action have been reviewed and reconsideration of the above-identified application in view of the following amendments and remarks, is respectfully requested

Claims 1-18 are pending and stand rejected.

Claims 1, 4, 7, 10, 13 and 16 are independent claims.

Claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16 and 17 have been amended.

Claims 1-18 stand rejected under 35 USC 103(a) as being unpatentable over Salmonsén (USP no. 7, 209, 874) in view of Sato (USPPA 2003/0041123) further in view of Pak (USPPA 2004/0267790) and further in view of Silen (USPPA 2002/0116518).

Applicant thanks the Examiner for his time to discuss the comments in the Advisory Action regarding the entry of the amendments to the claims made in Response to the Final Office Action and to discuss proposed further amendments to the claims.

In view of the statements made in the Advisory Action that "[i]n response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wherein the quality is related to a bandwidth requirement and not rendering requirements (of the device)) are not recited in the claims," applicant respectfully disagrees.

Each of the independent claims recite the elements of "a detecting means for detecting an available bandwidth; a selecting means for selecting relevant quality of the content available for downloading according to the detected bandwidth information and the information regarding the content of the content available for downloading... a playing means for playing the content available for downloading combined with the pre-stored content..." Thus, applicant

believes that the claims do refer to the quality being related to a bandwidth requirement only.

Although, the receiving device may have certain rendering requirements, the invention is related to content being played according to the detected bandwidth information. The features of the rendering device are discussed by Pak, as will be explained, and the selection process disclosed by Pak is thus different than that recited in the claims.

In addition, applicant has elected to amend the independent claims to more clearly present the subject matter claimed. More specifically, the independent claims have been amended to recite the element of "...wherein the quality menu includes a plurality of quality options associated with different bandwidth related rendering qualities associated with the content available for downloading..." No new matter has been added. Support for the amendment may be found at least on page 7, lines 2-10, ("For example, the content requiring downloading and stored in the network server is the director annotation, thus the corresponding menu includes the following options: A. using the audio with very high quality to express the director annotation, at the **bit rate of 256Kbps**; B. using the audio with very poor quality to express the director annotation, at the **bit rate of 64Kbps**; C. using the subtitles based on text to express the director annotation, at the **bit rate of 20Kbps**, so that the network server may select automatically from the menu to download information in conformance with the current bandwidth to implement the seamless playback when receiving the current network connection bandwidth.").

In consideration of the interpretations of the claim language provided by the Examiner, the claims have been amended to recite that the quality menu includes different rendering qualities associated with the content available for downloading and the selection of the quality is based on the available bandwidth.

Pak, which is cited by the Office for teaching a quality menu including bandwidth characteristics, teaches a system wherein content is downloaded

based bandwidth and characteristics of the rendering equipment. For example, para. 0045 describes the content of table shown in Figure 7, wherein a "first type of AV data is provide based on the environment of the client in which a minimum data transmission velocity is 64kbps, a display has resolution of 640x480, and where one audio channel is set. ... In other words, the higher the minimum data transmission velocity is, the higher the quality of video and/or audio provided to the client. In comparison between feature information related to the first type of AV data and the feature information related to the third type of AV data, the third type of AV data provides higher quality video and/or audio than the first type of AV data."

In para. 0046, Pak discloses that "the contents #1 further includes types of subtitles according to the physical size of the display of the client. In other words, different types of subtitles are provided depending on whether the display of the client has the physical size of more than or less than 20x15 inches. This is to provide subtitles of a size appropriate for the physical size of the display."

Thus, Pak teaches that the quality of downloaded content is dependent upon factors regarding the characteristics of rendering equipment in addition to a bandwidth factor. However, the quality is not selected in conformance with the bandwidth as the characteristics of the rendering equipment may override any quality selection based on the bandwidth. For example, even if the available bandwidth is greater than 2Mbps but the rendering equipment has a screen resolution of 640x480 and 1 audio channel, then the quality is selected as 64Kbps for transmission of content as any greater bandwidth would be wasted because the rendering equipment cannot process the additional content. Accordingly, Pak fails to teach the element selecting a quality in conformance with the available bandwidth, as is recited in the claims.

Hence, the combination of the cited references fails to disclose or suggest the element of a quality menu including different rendering qualities and selecting a rendering quality based on a detected bandwidth. Thus, the claims, as amended, are patently distinguishable over the cited references.

In this case, the combination of the cited references fails to disclose at least one material element recited in the independent claims and thus, the combination of the cited references cannot be said to render obvious the subject matter recited in the independent claims.

With regard to the remaining claims, these claims depend from a corresponding one of the independent claims and, hence, are also allowable by virtue of their dependency upon an allowable base claim.

For the amendments made to the claims and for the remarks made herein, applicant submits that the reasons for the objections and rejections of the claims have been overcome and withdrawal of same is respectfully requested. The issuance of a Notice of Allowance is expressly requested.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at the telephone given below.

Respectfully submitted,
Michael E. Belk, Reg.No. 33357

Date: October 14, 2010

/Carl A. Giordano/
By: Carl A. Giordano
Attorney for Applicant
Registration No. 41,780

Mail all correspondence to:
Michael E. Belk
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9643
Fax: (914) 332-0615

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being

- ☐ Transmitted by facsimile to 571 273 8300;
☐ Transmitted electronically using the currently available EFS;
☐ Placed with the US Postal Service with First Class postage attached to the address indicated above;
on October ____ 2010.

Print Name

Signature